

1 **Q. Please state your name, position, and business address.**

2 A. My name is Lawrence J. Krajci. I am Staff Manager of State Government
3 Affairs for ALLTEL Communications, Inc. My business address is One
4 Allied Drive, P.O. Box 2177, Little Rock, Arkansas, 72203.

5 **Q. Please describe your educational background and experience.**

6 A. I received a Bachelor of Science Degree from Penn State University. I've
7 been employed by ALLTEL for the past 20 years in a variety of sales,
8 customer service, inter-company relations, and regulatory positions. I am
9 presently responsible for representing ALLTEL Communications, Inc. and
10 other ALLTEL subsidiary interests in state regulatory matters in Arkansas,
11 Michigan, Missouri, Ohio, West Virginia, and South Carolina for this
12 proceeding. I have testified on regulatory matters before state public
13 service/public utility commissions in Georgia, Michigan, Missouri, New
14 Mexico, Oklahoma, Pennsylvania, and Tennessee.

15 **Q. What is the purpose of your testimony in this proceeding?**

16 A. First, I would like to adopt the Direct Testimony filed in this proceeding by
17 ALLTEL Communications, Inc. witness Steve R. Mowery as my own
18 testimony. Any questions concerning that testimony may be directed to
19 me. Most importantly, this Rebuttal Testimony addresses a number of
20 issues in the testimony filed by other parties in this proceeding.

21 **Q. What is your general reaction to the testimony filed by South**
22 **Carolina Telephone Coalition (SCTC) witnesses Meredith and Oliver,**
23 **and Verizon witness Trimble?**

1 **A.** The three witnesses raise numerous points that are not at issue in this
2 proceeding. ALLTEL's application for designation as an Eligible
3 Telecommunications Carrier (ETC) is a straightforward request to be
4 considered by this Commission under existing laws, rules and procedures.
5 The criteria to be employed in examining the application have been laid
6 out by the FCC, and ALLTEL meets those criteria. The questions to be
7 answered are relatively few: Is ALLTEL a common carrier? Does ALLTEL
8 or will ALLTEL advertise and offer the supported services specified by the
9 FCC throughout its designated service area? And for service areas of rural
10 telecommunications carriers, is it in the public interest to designate
11 ALLTEL as an ETC? Witnesses Meredith, Oliver, and Trimble have filed
12 testimony that is more appropriate for filing in the FCC/State Joint Board
13 USF proceeding that is investigating potential changes that might be made
14 to the federal USF process going forward. Many of the issues they raise
15 are not the subject of this proceeding and should not be considered by the
16 Commission in this proceeding. The only relevant issue raised is that of
17 the public interest determination in rural service areas.

18 **Q.** Verizon Witness Mr. Trimble states that "ALLTEL assumes that 47
19 U.S.C. Section 214(e)(2) means that the Commission need only
20 evaluate the "public interest" requirements in rural study areas.
21 ALLTEL's interpretation is incorrect." Is he correct?

22 **A.** No. In fact the proper response to that question can be found in the exact
23 statute Mr. Trimble cites in his testimony to make such a claim. 47 U.S.C.

§214(e)(2) clearly states that "upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and **shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier** for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). The statute itself states that designation of additional ETCs in non-rural areas is consistent with the public interest and that the state commissions shall designate more than one ETC in non-rural areas. Therefore, if a carrier meets the requisite criteria of offering and advertising services supported by the federal USF mechanism, a state commission must grant ETC status in non-rural study areas. SCTC witness, Mr. Meredith seems to agree when he states that "the process for areas served by non-rural telephone carriers does not require that state commissions consider the public interest in designating more than one ETC" (Meredith Direct Testimony, page 4).

Q. The witnesses for the other parties suggest that the Commission must conduct a cost-benefit analysis in order to determine whether designating ALLTEL as an ETC is in the public interest. Does §214 require such an analysis to determine the public interest?

A. No. § 214 does not require such an analysis.

1 **Q. Has the FCC determined that designating additional ETCs in rural**
2 **territories is in the public interest? If so what was the FCC's public**
3 **interest analysis?**

4 **A.** Yes, the FCC has designated additional ETC's to serve in rural territories
5 in a number of states. In approving the application of Guam Cellular and
6 Paging, Inc. d/b/a Guamcell Communications Petition for Designation as
7 an Eligible Telecommunications Carrier, the FCC, in its public interest
8 analysis, stated that "an important goal of the Act is to open local
9 telecommunications markets to competition. Designation of competitive
10 ETCs promotes competition and benefits consumers in rural and high-cost
11 areas by increasing customer choice, innovative services, and new
12 technologies. We find that the island of Guam will benefit from competition
13 in the provision of telecommunications service. We agree with Guamcell
14 that competition in Guam should result not only in increased choices,
15 higher quality service, and lower rates, but will also provide an incentive to
16 the incumbent rural telephone company to introduce new and innovative
17 services, including advanced service offerings, to remain competitive,
18 resulting in improved service to Guam consumers. We also find that the
19 provision of competitive service will facilitate universal service to the
20 benefit of consumers in Guam by creating incentives to ensure that quality
21 services are available at "just, reasonable, and affordable rates." ¹

22 **Q.** **On page 11 of his testimony Mr. Meredith states that he is aware of**
23 **the FCC's public interest analysis you have discussed above.**

1 **However, Mr. Meredith implies that the FCC has since reversed such**
2 **a determination. Is that true?**

3 A. No. The FCC has not reversed its previous public interest analysis. The
4 FCC has directed the Joint-Board on universal service to review its current
5 rules and policies on universal service funding. The outcome of that
6 proceeding may or may not change the existing rules and procedures.
7 This Commission must apply the existing rules and policies when
8 determining if ALLTEL should be granted ETC status in rural service
9 territories in the state of South Carolina. If the Joint Board ultimately
10 recommends changes and if the FCC approves them, then those rules
11 and procedures will apply to all ETCs from that point forward.

12 **Q. What public interest analysis has been utilized by state commissions**
13 **in designating additional eligible telecommunications carriers in**
14 **rural service areas?**

15 A. The Nebraska Public Service Commission concluded that the purpose of
16 the public interest requirement of 47 U.S.C. §214(e) was not to protect
17 rural telecommunications companies from competition but to ensure that
18 rural areas receive the same benefits as urban areas. The PSC
19 determined that the public interest requirement is centered on a threshold
20 issue of whether a proposed application has defined its service area
21 reasonably enough to prevent "cherry picking" of desirable customers by

¹ Guam Cellular and Paging, Inc., DA 02-174 (released January 12, 2002)

1 incoming ETCs.² ALLTEL will meet this standard in South Carolina
 2 because with a statewide service area there is no "cherry picking".
 3 The Kansas Corporation Commission determined that public interest
 4 would be served by the availability of additional choice among
 5 technologies and providers. Moreover, the Commission found that
 6 wireless universal service providers offer additional services not offered by
 7 wireline carriers, such as mobility, access to emergency service without
 8 regard to the availability of landline telephones, and large local calling
 9 areas. Finally, the Commission concluded that designating another ETC
 10 will engender competition among carriers providing services supported by
 11 federal and state universal service high cost programs and that this
 12 competition will benefit consumers.³ ALLTEL similarly meets these same
 13 standards in South Carolina. ALLTEL wireless service will provide
 14 customers an additional choice of technologies, mobility, access to 911
 15 emergency services and large local calling areas.
 16 The Michigan Public Service Commission, in designating RFB Cellular as
 17 an eligible telecommunications carrier, found that the public interest is
 18 served because designating RFB as an ETC will promote competition and
 19 provide benefits to customers in high cost areas by increasing customer
 20 choice, while promoting innovative services and new technologies and

² In re Application No. C-1889 of GCC License Corporation. State of Nebraska, Public Service Commission, appellee, v. Arlington Telephone Company et al. Supreme Court of Nebraska

³ GCC License Corporation's Petition for Designation as an ETC, Before the Kansas Corporation Commission, Docket No.99-GCCZ-156-ETC, Order issued September 2, 1998.

1 encouraging affordable telecommunications services.⁴ ALLTEL similarly
 2 meets this standard in South Carolina by providing a competitive service
 3 that increases the customers' options in choosing a telecommunications
 4 provider.

5 The North Dakota Public Utility Commission, in its Order designating
 6 Western Wireless an ETC, agreed with Western Wireless' argument that
 7 the public interest is served where there is a reasonable expectation that
 8 competition may have beneficial impacts for consumers.⁵ Again, ALLTEL
 9 meets this standard in South Carolina as a competitive service provider.

10 The South Dakota Public Service Commission utilized a two-part analysis
 11 to determine whether it is in the public interest to designate an additional
 12 ETC in an area served by a rural telephone company. The first part is
 13 whether consumers realize benefits from increased competition. The
 14 second part is whether the rural area is capable of supporting competition,
 15 or in other words, whether the introduction of competition in rural areas will
 16 have a detrimental effect on the provisioning of universal service. Upon
 17 completing further proceedings the South Dakota Commission found that
 18 the evidence presented did not support a finding that the incumbent LECs
 19 will be unable to continue to provide the supported services.⁶ The issues
 20 raised by the South Dakota Independent Telephone Coalition in that
 21 proceeding were similar to the issues raised in this proceeding by the

⁴ Application of RFB Cellular, Inc. for Designation as an ETC, Before the Michigan Public Service Commission, Case No. U-13145

⁵ Western Wireless Corporation Designated Eligible Carrier Application, Before the North Dakota Public Service Commission, Case No. PU-1564-98-428, Order issued 10/3/2001.

1 other parties in their testimony. The South Carolina Commission should
 2 make a similar determination that the evidence presented in this
 3 proceeding does not support a finding that the local exchange carriers will
 4 be unable to continue to provide supported services if ALLTEL is
 5 designated as an ETC.

6 The Public Utility Commission of Texas concluded that the analysis of the
 7 public interest is guided by the fundamental goal of preserving and
 8 advancing universal service, and that the component goals of ensuring the
 9 availability of quality telecommunications services at just, reasonable, and
 10 affordable rates, and the deployment of advanced telecommunications
 11 and information services to all regions of the United States, including rural
 12 and high cost areas.⁷

13 The South Carolina Commission should make findings that are consistent
 14 with the findings of the other state commissions and the FCC so that the
 15 citizens of South Carolina can enjoy the same competitive benefits that
 16 consumers of other states enjoy as a result of the above decisions.

17 **Q. On page 12 of his Testimony Mr. Meredith states that "It appears**
 18 **ALLTEL is already competing in rural study areas through out South**
 19 **Carolina - not to mention other CMRS providers also competing**
 20 **through out the state. Hence, any benefit to consumers that ALLTEL**

^{6 6} GCC License Corporation's Petition for Designation as an ETC, Before the South Dakota Public Service Commission, TC 98-146, Order issued 10/18/2001.

⁷ Application of Grande Communications Networks, Inc. for Designation as an Eligible Telecommunications Carrier, Before the Public Utility Commission of Texas, PUC Docket No 26404, Order issued 5/23/2003.

1 **claims as part of ETC designation are already evident in the**
2 **marketplace." What is your response?**

3 A. ALLTEL, similar to the incumbent LECs of South Carolina, currently
4 provides service throughout the state. Upon designation as an ETC,
5 ALLTEL will qualify to receive funds similar to those received by the
6 incumbent LEC in a given study area. ALLTEL will utilize those funds, just
7 as the incumbent LECs do, to enhance its network. Consumers will benefit
8 from better service quality and more reliable service in addition to the
9 benefits of mobility and larger calling areas that wireless service provides
10 over traditional wireline service. While competitive benefits are presently
11 available from ALLTEL and other wireless carriers, those benefits will be
12 increased by the network enhancements and improvements that will result
13 from the designation of ALLTEL as an ETC for federal support in South
14 Carolina.

15 **Q. The witnesses for the other parties point to the July 1999 Fifth Circuit**
16 **Court decision to claim that the state commissions may impose**
17 **additional requirements when designating ETC carriers as ETCs in**
18 **rural territories. Do you agree with this claim?**

19 A. No I do not. Although the Fifth Circuit Court of Appeals vacated the FCC's
20 prohibition on state commissions adding additional requirements for
21 federal ETC status, the issue raised in that case was whether Congress
22 had prohibited states "from imposing service quality standards" consistent

1 with state "regulation of intrastate service."⁸ Clearly, commissions are not
 2 preempted from enforcing state-law rules on state-regulated carriers. This
 3 does not mean, however, that a state commission is free to impose
 4 additional requirements on a CMRS provider contrary to federal law. For
 5 example, the FCC has ruled that certification requirements, equal access
 6 obligations, rate regulation and carrier-of-last-resort requirements are
 7 preempted as applied to a CMRS provider, and thus cannot be conditions
 8 for ETC designation.⁹ The South Carolina Commission should be very
 9 cautious in adding requirements for ETCs that exceed those already
 10 established by the FCC.

11 **Q. Beginning on page 18 of his direct testimony, SCTC witness**
 12 **Meredith implies that ALLTEL's application should not be approved**
 13 **because of pending action by the Federal-State Joint Board. Would it**
 14 **be appropriate to withhold certifying ALLTEL until after the Federal-**
 15 **State Joint Board proceeding is completed?**

16 **A.** No it would not. Withholding approval because of changes that may or
 17 may not be made at some future date would be inappropriate and would
 18 delay the benefits of competitive choice, mobility, larger calling scopes
 19 and improved network capability to South Carolina consumers that
 20 designating ALLTEL as an ETC would bring.

21 **Q. Mr. Meredith raises concerns about the size of the Federal Universal**
 22 **Service Fund. He also introduces an exhibit prepared by OPASTCO**

⁸ Texas Office of Public Utility Council v. FCC, 183 F.3d 393, 417 (5th Cir. 1999).

1 on Universal Service. Should this Commission consider these
2 issues?

3 **A.** No it should not. Concerns over the size of the USF are being considered
4 by the Federal-State Joint Board and are not the subject of this
5 proceeding. This proceeding is to determine whether or not ALLTEL
6 qualifies as an ETC for federal USF under existing law. When and if
7 existing law changes, all carriers will be subject to those changes
8 including ILEC ETCs and competitive ETCs. Similarly, the OPASTCO
9 exhibit provides no information relevant to this proceeding.

10 **Q.** **SCTC witness Oliver also raises concerns with the size of the**
11 **Federal USF, especially as it relates to increases in end user**
12 **surcharges. Would denying ALLTEL's application result in a**
13 **reduction in the surcharges paid by South Carolina consumers?**

14 **A.** This is another issue that the Joint Board is addressing and that the FCC
15 will ultimately decide. However, it is important to note that a number of
16 states have already designated additional ETCs for federal USF support.
17 Any funds currently flowing to ETCs in those states are generated through
18 end user surcharges on customer bills in all states including South
19 Carolina. Additional benefits will only be realized by customers in South
20 Carolina from the expanded services offered by newly designated South
21 Carolina ETCs such as ALLTEL. Denial of ALLTEL's application would
22 result in the citizens of South Carolina supporting the benefits that

⁹ See In the Matter of Federal-State Board on Universal Service, Report and Order, CC Docket No. 96-45, FCC 97-157, 78, 144, 147 (rel. May 8, 1997) ("Universal Service Order")

1 competitive ETCs bring to citizens of other states but would deny South
2 Carolina consumers those same benefits. Such denial is clearly not in the
3 public interest of South Carolina consumers.

4 **Q. On page 14 of his direct testimony, SCTC witness Oliver states that if**
5 **ALLTEL's application is approved, ALLTEL will experience a windfall**
6 **of funding for its existing customer base. Do you agree with this**
7 **statement?**

8 **A.** No I do not. Mr. Oliver assumes that because ALLTEL's existing network
9 was built without USF funds, then no USF funds are needed. The same
10 could be said of the ILEC network with equal inappropriateness. The ILEC
11 network was also initially built without USF funding. Funds provided by the
12 federal USF will be used by ILECs and competitive ETCs alike to operate,
13 maintain and expand their networks to the benefit of consumers in South
14 Carolina. Mr. Oliver also claims that ALLTEL has not told the Commission
15 how the funds it receives will be spent. However, ALLTEL's application
16 clearly stated that "ALLTEL commits to use available federal high cost
17 support for its intended purposes – the construction, maintenance, and
18 upgrading of facilities serving rural areas for which support is intended.
19 (ALLTEL Application, p. 11) This is exactly the same certification made by
20 the incumbent LECs today when they ask this Commission to certify them
21 as eligible carriers to USAC and the FCC each year. Federal USF support
22 is not a "windfall" to ILECs or competitive ETCs when utilized for its
23 intended purposes.

1 **Q.** On page 7 of his direct testimony, Verizon witness Trimble states
2 that the Commission must determine whether ALLTEL has submitted
3 the evidence necessary to support the “conclusory” assertions that
4 it provides the services and functionalities supported by the federal
5 universal service program. Do you agree?

6 **A.** No I do not. As I have said previously, ALLTEL’s application includes the
7 exact certification statement that South Carolina ILECs file annually to self
8 certify their eligibility to receive federal USF revenues. This certification
9 process has proven adequate and appropriate for the incumbent LECs
10 and is similarly adequate and appropriate for competitive ETCs. No
11 additional evidence is required of the ILECs, nor should it be required of
12 competitive ETCs.

13 **Q.** Would you please summarize your rebuttal testimony?

14 **A.** ALLTEL’s application for ETC designation stands on its own merit, and
15 contains the necessary information for this Commission to approve the
16 application and to grant ETC status to ALLTEL. ALLTEL offers or will offer
17 all the services supported by the federal high cost universal service
18 program as specified in 47 USC §214(e)(1). ALLTEL will advertise those
19 services as required. ALLTEL has demonstrated that granting this
20 application will serve the public interest by providing additional competitive
21 choice, mobility, larger calling scopes, and improved network capability to
22 South Carolina consumers.

1 The testimonies of Messrs. Trimble, Oliver, and Meredith are for the most
2 part misplaced, as their testimony attempts to unnecessarily complicate
3 this case by raising issues presently being addressed by the Federal-
4 State Joint Board on USF. The directive from §214(e)(2) is clear. The
5 Commission must seek responses to the following three questions: (1) Is
6 ALLTEL a common carrier? (2) Does ALLTEL or will ALLTEL advertise
7 and offer the supported services specified by the FCC throughout its
8 designated service area? and (3) In service areas of rural
9 telecommunications carriers, is it in the public interest to designate
10 ALLTEL as an ETC? ALLTEL has provided ample evidence for the
11 Commission to respond "yes" to these three questions. Therefore, the
12 Commission should grant ALLTEL's request for designation as an ETC.

13 **Q. Does this conclude your testimony?**

14 **A. Yes.**